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EXAMINER	
TUCKER, WESLEY J	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/737,371	HERTZ ET AL.	
	Examiner	Art Unit	
	Wes Tucker	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12,15-19 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12,15-19 and 21-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 December 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment and Arguments

1. Applicant's response to the last office action, filed February 9th 2005, has been entered and made of record.

2. Applicant has amended claims 1 and 15. Applicant has added new claims 21-23. Claims 1-12, 15-19, and 21-23 are pending.

3. Applicant's arguments have been fully considered and entered, but are not completely persuasive for at least the following reasons:

4. With regard to independent claims 1 and 15, Applicant argues that the reference of Khosla teaches away from the feature of automatically and repeatedly comparing user-specified data with a available metadata over time to continually evaluate and selct digital images provided by the image server for distribution to the user because Khosla teaches that a search is performed according to user specified criteria on a group of images in order to obtain a subset of those images and that Khosla does not repeatedly, continually, and overtime perform the operation as a "standing order." Examiner disagrees and submits that this hardly "teaching away" from the invention. Examiner submits that it is the nature of computer programs to perform such operations more than once, repeatedly, automatically and over time and while Khosla is still interpreted to read on the claims, it is an obvious embodiment of any computer program to

run continuously performing operations in loops until it is told to stop. To illustrate this point, another reference is presented that performs such an operation. U.S. Patent 6,480.627 is an image classifier that teaches continuously gathering images according to user specification, repeatedly, overtime and automatically.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,480,627 to Mathias et al.

7. With regard to claim 21, Mathias discloses a programmable software agent for selecting digital images for distribution to a user, the software agent in communication with at least one image server having stored digital

images, the digital images including metadata containing information about the digital images, the software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital metadata over time to continually evaluate and select digital images provided by the image server for distribution to the user (column 9, lines 36-51).

The image classification of Mathias automatically and repeatedly performs searches for images and return images that meet a certain criteria such as cars the user is known to like. Some kind of metadata is inherent in designating whether or not the images meet the criteria. In this way the user may be updated continuously each time a new image of interest is found

8. With regard to claim 22, Mathias discloses the programmable software agent according to claim 21, wherein the software agent is operable to monitor the at least one image server for digital images (column 9, lines 47-51).

9. With regard to claim 23, Mathias discloses the programmable software agent according to claim 21, wherein the at least one image server is operable to push digital images to the software agent (column 9, lines 47-51).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-8, 10 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,571,271 to Savitzky et al. in view of U.S. Patent 6,480,627 to Mathias et al.

12. With regard to claim 1, Savitzky discloses a system for distributing digital images to a user. Savitzky discloses the system comprising an image capture device (Fig.1, element 116) for creating digital images wherein the digital images include metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses at least one image server (Fig.1, 100) in communication with the image capture device, the image server receiving and storing digital images transmitted from the image capture device (column 4, lines 1-2).

Savitzky further discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) and automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata to evaluate and select a subset of digital images provided by the image server.

Mathias discloses at least one software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata over time in order to continually evaluate and select a subset of digital images provided by the image server (column 9, lines 41-51). Mathias teaches that in the image classifier, the system can automatically and repeatedly search for images and return images that meet a certain criteria such as cars the user is known to like. In this way the user may be updated continuously each time a new image of interest is found. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the image classification

method taught by Mathias in combination with the image acquisition of Savitsky in order to continually update a user when an image of interest is found.

13. With regard to claim 2, Savitzky discloses the system wherein the at least one software agent is operable to monitor the at least one image server for digital images (column 1, lines 50-55). Here the image server recognizes new images and creates or modifies HTML pages. The server does this automatically and must require a "software agent."

14. With regard to claim 3, Savitzky discloses the system wherein the at least one image server is operable to push digital images to the at least one software agent (column 2 lines 60-65). Here the server presents the images as HTML pages with the help of the software agent.

15. With regard to claim 4, Savitzky discloses the system further including at least one display device for displaying the digital images selected by the at least one software agent (column 1, lines 50-55). Here the images are chosen by a software agent and displayed in the form of HTML pages. The display device would be some form of computer monitor.

16. With regard to claim 5, Savitzky discloses the system wherein the at least one software agent is associated with the at least one display device

(column 2, lines 63-65). Here the HTML pages are associated with the web page displayed on some type of digital screen or monitor.

17. With regard to claim 6, Savitzky discloses the system further including a central processor in communication with the at least one display device (column 2 lines 60-65). Here it is understood that the central processor will be a computer and the display device will be that computer's monitor.

18. With regard to claim 7, Savitzky discloses the system wherein the at least one software agent is associated with the central processor (column 2 lines 60-65). It is inherent that a software agent must be associated with a central processor.

19. With regard to claim 8, Savitzky discloses the system wherein the central processor includes a plurality of programmable software agents corresponding to each of the display devices (column 2 lines 60-65). A number of different programmable software agents must be used to make HTML pages available to be seen on several different display devices.

20. With regard to claim 10, Savitzky discloses the system wherein the at least one software agent and the at least one image server are in connection via a broadband network (column 4, lines 1-4). Here it is understood that the

Internet contains broadband networks. It is inherent that two devices in connection through the Internet would be in connection through a broadband network.

21. With regard to claim 15, the discussion of claim 1 applies. The method claimed is considered to be included in the system previously discussed.

22. With regard to claim 16, Savitzky discloses the method further including displaying the digital images selected by the at least one software agent (column 2, lines 61-64). Here clients are requesting certain pictures through a network interface, which must have a software agent to select the images to be displayed.

23. With regard to claim 17, Savitzky discloses the method further including creating the digital images using the image capture device (column 1, lines 43-45). It is inherent that the image capture device is used to create images.

24. With regard to claim 18, Savitzky discloses the method further including monitoring the at least one image server for digital images using the at least one software agent (column 2, lines 51-55).

25. With regard to claim 19, Savitzky discloses the method further including pushing digital images from the at least one image server to the at least one software agent (column 2, lines 61-64).

26. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,571,271 to Savitzky et al. and U.S. Patent 6,480,627 to Mathias et al. in view of U.S. Patent No. 6,337,712 to Shiota.

27. With regard to claim 9, Savitzky and Mathias disclose the system according to claim 4. They do not specify the use of the system wherein the at least one display device is connected to a home network. Shiota discloses a device similar to the claimed invention and also allows for a connection with a general household office (Fig. 3, 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a connection with a home network for the reason of using the device to transfer and display images from home.

28. With regard to claim 11, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for a wireless communication link between the image capture device and the image server.

Shiota discloses a device very similar to the claimed invention and also allows for a wireless communication link (Fig.3, 5) between the server (Fig.3, 6) and the image capture device (Fig.3, 1). Shiota teaches that a wireless link is useful because "a user of a digital camera can transfer images, via this system while the user is away from home, thereby enabling continual use of the digital camera." See abstract last three lines. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a wireless communication link to facilitate transfer of digital images while the user is away from home.

29. With regard to claim 12, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for communication between the image capture device and image server via a synchronization cradle. Shiota discloses a device very similar to the claimed invention and also allows for a synchronization cradle or docking station (4). The docking station is another way to transfer images from the camera to the server. Using a cradle, image transfer can be done without removing a memory card or storage device from the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a synchronization cradle or docking station as taught by Shiota in the device of Savitzky to transfer images from camera to server quickly and easily.

30. Claims 1-8, 10 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,571,271 to Savitzky et al. in view of U.S. Patent 6,202,061 to Khosla et al.

31. With regard to claim 1, Savitzky discloses a system for distributing digital images to a user. Savitzky discloses the system comprising an image capture device (Fig.1, element 116) for creating digital images wherein the digital images include metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses at least one image server (Fig.1, 100) in communication with the image capture device, the image server receiving and storing digital images transmitted from the image capture device (column 4, lines 1-2).

Savitzky further discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) and automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-

specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata to evaluate and select a subset of digital images provided by the image server.

Khosla discloses at least one software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata over time in order to continually evaluate and select a subset of digital images provided by the image server (column 10, line 54-column 11, lines 45). Khosla discloses a method of searching a database for pictures using user-specifed search criteria and comparing search criteria with metadata such as file type, file name, text fields, date, etc. Also the picture database is contained within a server (column 2, lines 27-31). Khosla teaches that the method automatically creates a volume of images corresponding to the user's request (column 2, lines 10-19). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the search method or software agent of Khosla in order to enable the user to retrieve a volume of select images according to the user's request in the networked appliance of Savitsky.

32. With regard to claim 2, Savitzky discloses the system wherein the at least one software agent is operable to monitor the at least one image server

for digital images (column 1, lines 50-55). Here the image server recognizes new images and creates or modifies HTML pages. The server does this automatically and must require a "software agent."

33. With regard to claim 3, Savitzky discloses the system wherein the at least one image server is operable to push digital images to the at least one software agent (column 2 lines 60-65). Here the server presents the images as HTML pages with the help of the software agent.

34. With regard to claim 4, Savitzky discloses the system further including at least one display device for displaying the digital images selected by the at least one software agent (column 1, lines 50-55). Here the images are chosen by a software agent and displayed in the form of HTML pages. The display device would be some form of computer monitor.

35. With regard to claim 5, Savitzky discloses the system wherein the at least one software agent is associated with the at least one display device (column 2, lines 63-65). Here the HTML pages are associated with the web page displayed on some type of digital screen or monitor.

36. With regard to claim 6, Savitzky discloses the system further including a central processor in communication with the at least one display

device (column 2 lines 60-65). Here it is understood that the central processor will be a computer and the display device will be that computer's monitor.

37. With regard to claim 7, Savitzky discloses the system wherein the at least one software agent is associated with the central processor (column 2 lines 60-65). It is inherent that a software agent must be associated with a central processor.

38. With regard to claim 8, Savitzky discloses the system wherein the central processor includes a plurality of programmable software agents corresponding to each of the display devices (column 2 lines 60-65). A number of different programmable software agents must be used to make HTML pages available to be seen on several different display devices.

39. With regard to claim 10, Savitzky discloses the system wherein the at least one software agent and the at least one image server are in connection via a broadband network (column 4, lines 1-4). Here it is understood that the Internet contains broadband networks. It is inherent that two devices in connection through the Internet would be in connection through a broadband network.

40. With regard to claim 15, Savitzky discloses a method for distributing digital images to a user. Savitzky discloses transmitting digital images from an image capture device (Fig.1, 116) to at least one image server (column 1, lines 45-50), the digital images including metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses receiving and storing the digital images at the at least one image server (Fig. 1, element 100).

Savitsky does not disclose providing at least one set of user-specified criteria for selecting digital images to at least one programmable software agent in communication with the at least one image server; and for each set of user-specified criteria, automatically and repeatedly comparing the user-specified criteria wit the available digital image metadata over time in order to continually evaluate and select a subset of the digital images for distribution to the user using the at least one programmable software agent.

Khosla discloses providing at least one set of user-specified criteria for selecting digital images to at least one programmable software agent in communication with the at least one image server; and for each set of user-specified criteria, automatically and repeatedly comparing the user-specified criteria wit the available digital image metadata over time in order to continually evaluate and select a subset of the digital images for distribution to the user using the at least one programmable software agent (column 10, line 54-column

11, line 45). Khosla discloses a method of searching a database for pictures using user-specifed search criteria and comparing search criteria with metadata such as file type, file name, text fields, date, etc. Also the picture database is contained within a server (column 2, lines 27-31). Khosla teaches that the method automatically creates a volume of images corresponding to the user's request (column 2, lines 10-19). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the search method or software agent of Khosla in order to enable the user to retrieve a volume of select images according to the user's request in the networked appliance of Savitsky.

41. With regard to claim 16, Savitzky discloses the method further including displaying the digital images selected by the at least one software agent (column 2, lines 61-64). Here clients are requesting certain pictures through a network interface, which must have a software agent to select the images to be displayed.

42. With regard to claim 17, Savitzky discloses the method further including creating the digital images using the image capture device (column 1, lines 43-45). It is inherent that the image capture device is used to create images.

43. With regard to claim 18, Savitzky discloses the method further including monitoring the at least one image server for digital images using the at least one software agent (column 2, lines 51-55).

44. With regard to claim 19, Savitzky discloses the method further including pushing digital images from the at least one image server to the at least one software agent (column 2, lines 61-64).

45. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,571,271 to Savitzky et al. and U.S. Patent 6,202,061 to Khosla et al. in view of U.S. Patent No. 6,337,712 to Shiota.

46. With regard to claim 9, Savitzky and Khosla disclose the system according to claim 4. They do not specify the use of the system wherein the at least one display device is connected to a home network. Shiota discloses a device similar to the claimed invention and also allows for a connection with a general household office (Fig. 3, 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a connection with a home network for the reason of using the device to transfer and display images from home.

47. With regard to claim 11, Savitzky and Khosla disclose the system according to claim 1. Savitzky and Khosla do not allow for a wireless communication link between the image capture device and the image server. Shiota discloses a device very similar to the claimed invention and also allows for a wireless communication link (Fig.3, 5) between the server (Fig.3, 6) and the image capture device (Fig.3, 1). Shiota teaches that a wireless link is useful because "a user of a digital camera can transfer images, via this system while the user is away from home, thereby enabling continual use of the digital camera." See abstract last three lines. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a wireless communication link to facilitate transfer of digital images while the user is away from home.

48. With regard to claim 12, Savitzky and Khosla disclose the system according to claim 1. Savitzky and Khosla do not allow for communication between the image capture device and image server via a synchronization cradle. Shiota discloses a device very similar to the claimed invention and also allows for a synchronization cradle or docking station (4). The docking station is another way to transfer images from the camera to the server. Using a cradle, image transfer can be done without removing a memory card or storage device from the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a synchronization cradle or docking

station as taught by Shiota in the device of Savitzky to transfer images from camera to server quickly and easily.

Prior Art

49. Other Prior art considered pertinent but not relied upon is as follows:

U.S. Patent 6,442,573 to Schiller et al. discloses a system similar to the claimed invention wherein a server supplies images of a certain selection to multiple subscribers on digital picture frame devices.

Conclusion

50. Applicant's amendment necessitated the new grounds of rejection presented in the Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 703-305-6700. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703)308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wes Tucker

4-20-05

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